

1 DAVID L. OLSON, ESQ. (Bar No. 49107)
2 LAW OFFICES OF DAVID L. OLSON
3 180 Grand Avenue, Suite 700
4 Oakland, California 94612
5 (510) 835-0500

6
7 Attorney for Defendant, Counter-Claimant and Third Party
8 Plaintiff Carol-Ann Tognazzini
9

10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN JOSE DIVISION

13 VESTA STRATEGIES, LLC,

14 Plaintiff,

15 v.

16 ROBERT E. ESTUPINIAN, GINNEY
17 ESTUPINIAN, MUTUAL VISION, LLC,
18 MILLENNIUM REALTY GROUP,
19 VESTA REVERSE 100, LLC, VESTA
20 CAPITAL ADVISORS, LLC, CAROL-
21 ANN TOGNAZZINI, EDMUNDO
22 ESTUPINIAN, and HAYDEE
23 ESTUPINIAN;
24 Defendants.

Case No. 07-06216 JW RS

**CAROL-ANN TOGNAZZINI'S INITIAL
DISCLOSURE STATEMENT**

(Fed. R. Civ. P. 26 (a)(1))

25 Pursuant to Rule 26 (a)(1) of the Federal Rules of Civil Procedure, Defendant, Counter-
26 Claimant and Third Party Plaintiff CAROL-ANN TOGNAZZINI, by and through her attorney,
27 makes the following Initial Disclosures:
28

1. PERSONS WITH KNOWLEDGE

The following are persons who are likely to have information that Carol-Ann Tognazzini
may use to support her claims and/or defenses in this case:

- 1
- 2 a. Ryon Tognazzini Knowledge and information on Tognazzini's work
- 3 7425 26th Street experience, financial condition and efforts on behalf of
- 4 Rio Linda, California 95673 Vesta Strategies, LLC
- 5 b. Carol-Ann Tognazzini Knowledge and information on Tognazzini's work
- 6 7425 26th Street experience, financial condition and efforts on behalf of
- 7 Rio Linda, California 95673 Vesta Strategies, LLC
- 8 c. Brad Hensley Knowledge and information on Tognazzini's work
- 9 Vesta Strategies, LLC experience, financial condition and efforts on behalf of
- 10 Address known to Plaintiff Vesta Strategies, LLC
- 11 d. Deserie Calhoun Knowledge and information on Tognazzini's work
- 12 Title Company employee experience, financial condition and efforts on behalf of
- 13 current address and phone Vesta Strategies, LLC
- 14 number unknown
- 15 e. Betty Brody Knowledge and information on Tognazzini's work
- 16 Realtor experience, financial condition and efforts on behalf of
- 17 Sacramento area Vesta Strategies, LLC
- 18 (916) 300-5202
- 19 f. Rodney Fitzpatrick Knowledge and information on Tognazzini's work
- 20 Vesta Strategies, LLC experience, financial condition and efforts on behalf of
- 21 Address known to Plaintiff Vesta Strategies, LLC
- 22 g. Robert Estupinian Knowledge and information on Tognazzini's work
- 23 Address known to Plaintiff experience, financial condition and efforts on behalf of
- 24 Vesta Strategies, LLC
- 25 h. Ginny Estupinian Knowledge and information on Tognazzini's work
- 26 Address known to Plaintiff experience, financial condition and efforts on behalf of
- 27 Vesta Strategies, LLC
- 28 i. Shane Holden, Knowledge and information on Tognazzini's work
- PriAmerica Financial Services experience, financial condition and efforts on behalf of
- Regional Vice President Vesta Strategies, LLC
- 10364 Rockingham Dr.
- Sacramento, CA 95827
- (916) 369-7737
- j. Channel Hong Knowledge and information on Tognazzini's work
- Vesta Strategies, LLC experience, financial condition and efforts on behalf of
- Address known to Plaintiff Vesta Strategies, LLC

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|----|-----------------------------------|---|
| 1 | k. Representative of Synergy, Inc | Knowledge and information on Tognazzini's payroll |
| 2 | Address known to Plaintiff | records |
| 3 | l. Steve Burris | Knowledge and information on Tognazzini's work |
| 4 | Bookkeeper/ Tax Preparer | experience and financial condition |
| 5 | 7478 Sandalwood Dr # 500 | |
| 6 | Citrus Heights, Calif. | |
| 7 | (916) 725-8200 | |
| 8 | m. Sean Hulsey | Knowledge and information on Tognazzini's education, |
| 9 | Wells Fargo Home Mortgage | work experience and financial condition |
| 10 | 591 Watt Ave. Ste 120 | |
| 11 | Sacramento, Calif. 95864 | |
| 12 | (916) 480-2219 | |
| 13 | n. Tracy Brawner | Knowledge and information on Tognazzini's education |
| 14 | 24-7 Nationwide Notary Netwo | and work experience |
| 15 | 616 S. El Camino Real, Suite F | |
| 16 | San Clemente CA. 92672 | |
| 17 | Phone: (949) 940-0000 | |
| 18 | o. Peter Yee, | Knowledge and information on Tognazzini's education, |
| 19 | Vesta Strategies, LLC | work experience, and efforts on behalf of Vesta |
| 20 | Address known to Plaintiff | Strategies, LLC |
| 21 | p. Bill Kraft, | Knowledge and information on Tognazzini's work |
| 22 | Vesta Strategies, LLC | experience and efforts on behalf of Vesta Strategies, |
| 23 | Address known to Plaintiff | LLC |
| 24 | q. Steven Greenbaum and | Knowledge and information on Tognazzini's education, |
| 25 | Brian Spindel | work experience and financial condition |
| 26 | PostNet Franchise, | |
| 27 | 1819 Wazee St. | |
| 28 | Denver, Co 80202 | |
| | (800) 841-7171 | |
| 29 | r. Coreen Lair | Knowledge and information on Tognazzini's education |
| 30 | Coverall Protective Covers | and work experience |
| 31 | 2577 Elkhorn | |
| 32 | Rio Linda, CA 95673 | |
| 33 | (916) 992-0555 | |

1 s. Defendant is also developing further information on contacts with Sacramento real estate
2 agents and title company representatives both before and after her employment with Vesta
3 Strategies, LLC.

4 Carol-Ann Tognazzini's investigation and discovery concerning this case is
5 continuing and if additional information is obtained after the date of these disclosures,
6 she will supplement these disclosures according to Rule 26 (e) of the Federal Rules of
7 Civil Procedure.

8 2. DOCUMENTS AND ELECTRONIC FILES

9 The following is a description by category and location of tangible documents,
10 electronically stored information, and tangible things currently known to Carol- Ann
11 Tognazzini and that she may use to support her claims and/or defenses in this case. The
12 documents and tangible things included in this initial disclosure and a description of the
13 electronically stored information that will be disclosed is briefly set out as follows:

14 1. Documents, e-mails, data compilations, customer list, Vesta correspondence,
15 personal financial information contained in hard drives of computers owned by Carol-Ann
16 Tognazzini and located in her residence at 7425 26th Street Rio Linda, California.

17 Carol Ann Tognazzini's investigation and discovery concerning this case is
18 continuing and, if additional information is obtained after the date of these
19 disclosures, she will supplement these disclosures according to Rule 26 (e) of the Federal
20 Rules of Civil Procedure.

21 In addition to the matters already disclosed, Carol-Ann Tognazzini has in her
22 custody, control and/or possession the following items that may be used to support her
23 claims and/or defenses in this case and are confidential and therefore disclosed by general
24 description only:

25 1. Bank account records:

- 26 a.) Bank of America checking account;
- 27 b.) Bank of America savings account;
- 28

2. PriAmerica Financial Services binder re financial planning;

1 3. Brokerage accounts/records:

2 a.) Fidelity Investments 401 K;

3 b.) IRA;

4 c.) E-Trade account;

5 e.) Family Trust records;

6 4. Real Estate appraisals;

7 5. Financial Statements prepared for banks and other financial institutions;

8 6. Documents regarding purchase and sale of PostNet franchise;

9 7. Documents, including IRS Form 1099 from 24/7 Nationwide Notary Network;

10 8. Pay roll records from Vesta Strategies, LLC in her possession;

11 In addition to the matters already disclosed, Carol-Ann Tognazzini also has within
12 her custody, control, or possession copies of various publicly available documents she
13 may use to support her claims and/or defenses in this case.
14

15 Because these documents are publicly available, they are disclosed by description
16 only:

17 1. Grant Deed dated May 18, 2001 for personal residence at 7425 26th Street Rio
18 Linda, California 95673;

19 2. Intra-family Transfers Deeds dated May 18, 2001 and April 12, 2002;

20 3. DAMAGES

21 The Counter Claim and Third Party complaint filed by Carol-Ann Tognazzini are
22 intended to recover damages for the conduct described therein. Plaintiff, Counter Claimant
23 and Third Party Defendant have filed a motion to dismiss and/or strike said claims. The
24 Court has not yet ruled on said motion and once the Court has ruled Defendant Carol-Ann
25 Tognazzini, with the exception of the damages outlined in sub-paragraph B below, will file a
26 supplemental disclosure covering the scope and nature of her damages sought for the following
27 categories:
28

A. Medical Expenses and Future Medical Expenses:

1 Pending;

2 A. Loss of Earnings and Loss of Future Earning Capacity:

3 Tognazzini was employed by Vesta Strategies in December 2006 at a monthly salary
4 of \$ 3,040.00, payable bi-monthly. Her last paycheck was received on December 1, 2007 for
5 the pay period November 7, 2007 through November 24, 2007 in the sum of \$ 1,520.00.
6 Her written termination notice was received on December 11, 2007, effective immediately. She has
7 not been paid, despite demand, for the period November 24, 2007 through December 11, 2007.
8 Neither has she received a W-2 for the period of her employment.
9

10 Her employment agreement provided for one day of vested paid vacation for each
11 month worked, up to a maximum of 10 days. She did not use any of her accrued vacation days and
12 therefore, pursuant to California Labor Code § 227.3 she is entitled to additional compensation of \$
13 1,520.00 for her accrued vacation days (\$152.00 daily wage x 10 = 1520).
14

15 Furthermore, Tognazzini is entitled to penalty wages pursuant to California Labor
16 Code § 203 in an amount equal to her daily wage for each day her unpaid wages are not paid, up to a
17 maximum of 30 days. Accordingly, she is entitled to penalty wages in the sum of \$ 4,560.00.
18

19 California Labor Code §§ 218.5 and 218.6 provide that the prevailing party in an
20 action to enforce payment of wages and benefits shall be entitled to reasonable attorneys fees in
21 bringing the action and interest on the outstanding wages, benefits and penalties at the rate of 10%
22 per annum from the date due.
23

24 Accordingly, Tognazzini is seeking \$ 7,600.00 in back wages, accrued benefits and penalty
25 wages, together with reasonable attorneys fees in bringing this action and interest on said
26 outstanding amount at the rate of 10% per annum from December 11, 2007, until paid in full.

27 C. Pain and Suffering and Emotional Distress:

28 Pending;

1 D. Punitive or Exemplary Damages:

2 Pending;

3 These initial computations will be subject to continuing analysis and will ultimately
4 be revised or supplemented if and as necessary according to Rule 26 (e) of the Federal Rules of
5 Civil Procedure, except for normal increases in past damages and claims of interest, all of which
6 should be assumed by the parties and which do not call for any specific supplementation.
7


8 4. INSURANCE AGREEMENTS

9 There are no insurance agreements, of which Carol-Ann Tognazzini is aware, that
10 may be applied to satisfy part or all of any judgment that may be entered in this action. Should
11 any be identified, a supplemental disclosure will be filed with the Court according to Rule 26 (e)
12 of the Federal Rules of Civil Procedure.

13 LAW OFFICES OF DAVID L. OLSON

14 Dated: April 21, 2008

15 By

16 
David L. Olson, Esq.
Attorney for Defendant Carol-Ann Tognazzini

PROOF OF SERVICE

I, Erin M. Martin, declare:

I am employed in Alameda County, State of California, am over the age of eighteen years, and not a party to the within action. My business address is 180 Grand Avenue, Suite 700, Oakland, California 94612. I am readily familiar with the business practice for collection and processing of correspondence for mailing with the United States Postal Service and/or other overnight delivery. Under overnight delivery practice, all mailings are deposited in an authorized area for pick-up by an authorized express service courier the same day it is collected and processed in the ordinary course of business. On April 21, 2008, I served the within documents:

**(1) INITIAL DISCLOSURE PURSUANT TO FEDERAL RULES OF CIVIL
PROCEDURE 26 (a)(1)(A)**

Aron Frakes ajfrankes@mwe.com

Daniel E. Alberti dalberti@mwe.com, aenelson@mwe.com,
clovdahl@mwe.com, jcullinan@mwe.com, Idean-reese@mwe.com

Paul Evans Chronis pchronis@mwe.com

Peter J. Drobac pdrobac@mwe.com, clovdahl@mwe.com

Alan Louis Martini amartini@smtlaw.com, aobey@smtlaw.com

Kevin R. Martin kmartin@randicklaw.com



(By Electronic Service) The above-referenced document was served by electronically mailing a true and correct copy through Law Offices of David L. Olson's electronic mail system, to the email addresses set forth as listed above, and in accordance with Federal Rules of Civil Procedure, Rule 5(b).

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on April 21, 2008, at Oakland, California.



Erin M. Martin